

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

Division of Water Rights

In the Matter of License 9462 (Application 22401)
Estate of Meta A. Wellock

ORDER REVOKING LICENSE

SOURCE: Grass Valley Creek tributary to Trinity River

COUNTY: Trinity

You are hereby notified, pursuant to Water Code section 1675 et seq. that the State Water Resources Control Board (State Water Board) is revoking License 9462 because the Licensee has ceased to put the water granted under the license to a useful or beneficial purpose.

A. The facts and information upon which the proposed revocation is based are as follows:

1. The State Water Board issued License 9462 on September 29, 1970. The Division of Water Rights' (Division) records show Benjamin R. and Meta A. Wellock (Licensees) as the owner of License 9462. The license authorizes the Licensees to divert one cubic foot per second, not to exceed 428 acre-feet per year from April 1 to November 1 of each year for irrigation and recreational purposes from Grass Valley Creek. The place of use is 10 acres located within the NW¼ of NW¼, section 26, T33N, R9W, MDB&M.
2. The license was re-assigned to Estate of Meta A. Wellock, David R. Wellock and Estate of Benjamin R. Wellock on December 29, 1976.
3. The license was re-assigned to Meta A. Wellock, David R. Wellock and Peggy R. Wellock on February 26, 1991.
4. The license was re-assigned to David R. Wellock, Peggy R. Wellock and Delbert Wellock on June 9, 1998.
5. Section 1675 of the Water Code provides: "If at any time after a license is issued, the board finds that the licensee has not put the water granted under the license to a useful or beneficial purpose in conformity with this division or that the licensee has ceased to put the water to such useful or beneficial purpose, or that the licensee has failed to observe any of the terms and condition in the license, the board, after due notice to the licensee and after a hearing, when a hearing is requested by the licensee pursuant to section 1675.1, may revoke the license and declare the water to be subject to appropriation in accordance with this part."
6. Since 1996, no water has been diverted under License 9462 (refer to triennial Report of Licensee filed for 1995, 1996, and 1997). The Division has not received any Reports of Licensee water use since 1996.
7. Subsequent to the death of Meta A. Wellock, there was a dispute over the ownership of the property. The dispute was settled in court and the property covered by License 9462 was

divided into two primary parcels. David and Peggy Wellock own a 15-acre parcel (025-180-19) containing most of the historical place of use and the Wellock Estate owns the remaining two parcels (025-180-21 and 025-180-22). The Division received a request to split License 9462 on May 8, 1998 as a result of the property being divided. One half was to be assigned to David R. and Peggy Wellock; the other one-half to be assigned to Delbert Wellock (Executor of Meta Wellock's Estate). The Division acknowledged this request in its June 9, 1998 letter stating David Wellock will be listed as the primary person to receive all correspondence pertaining to License 9462.

8. The Division received a letter from James Dippery, Jr., attorney for the Estate of Meta A. Wellock, dated June 27, 2000, stating the license should be in the names of Nona Searcy, Delbert Wellock, Barbara Wellock, Clyde Wellock, Kit Wellock and Chloe Wood. The Division confirmed by letter dated April 12, 2005 that License 9462 is reassigned to the Estate of Meta A. Wellock, Nona E. Searcy, Delbert Wellock, Barbara Wellock, Clyde E. Wellock, Kit Wellock, and Chloe I. Wood. Delbert Wellock is the agent to receive correspondence for the license.
9. Peggy and David Wellock advised the Division on October 21, 2003 that they were not diverting water.
10. Division staff contacted Peggy Wellock on January 13, 2005 regarding the status of their water right. Peggy Wellock advised License 9462 should be revoked since no water has been used for five years. Peggy Wellock stated the Department of Water Resources installed a sediment basin below their dam site; however Department of Fish and Game (DFG) denied David and Peggy Wellock a permit to install a dam.
11. Peggy Wellock sent the Division a letter dated January 13, 2005 requesting a Revocation Form since the water has not been used for over five years and they do not intend to use it again. The Division received a letter and Revocation Request form dated February 8, 2005, signed by Peggy Wellock.
12. Peggy Wellock's February 8, 2005 letter advised the Division that she wanted the license revoked. She had not used the water in five years and did not intend to divert again.
13. The license was re-assigned to Estate of Meta A. Wellock, Nona E. Searcy, Delbert Wellock, Barbara Wellock, Clyde E. Wellock, Kit Wellock and Chloe I. Wood on April 12, 2005. Delbert Wellock is the agent of record for the Estate.
14. James Dippery, Jr. contacted Division staff on February 7, 2006 and confirmed the property covered by License 9462 has been divided into two primary parcels. Mr. Dippery, in addition to being the attorney for the Wellock Estate, is married to one of the heirs of the Wellock Estate and he and his wife have purchased all of the family member's interest in the remaining two parcels (025-180-21 and 22) of the property originally held by the Estate. Mr. Dippery stated that no water has been diverted under the right for approximately ten years since the ditch has not been maintained and the diversion dam on Grass Valley Creek is in disrepair. Mr. Dippery also stated DFG has negotiated privately with David Wellock to provide a pumping facility directly on the Trinity River in exchange for a cessation of diversion from the licensed point of diversion. Mr. Dippery stated that the license should be revoked based on abandonment for a duration exceeding the five-year statutory non-use period.
15. Division staff contacted Peggy Wellock on January 21, 2007 regarding the Revocation Request dated February 8, 2005 and advised since this property is in joint ownership, the Request for Revocation must be signed by both parties (Peggy and David Wellock). Peggy Wellock confirmed there have been no diversions from Grass Valley Creek for about six to seven years. David and Peggy Wellock receive their water for irrigation from the Trinity River. On

January 22, 2007, the Division received an undated faxed Request for Revocation Form signed by David Wellock.

B. Based on the facts, the Division concludes Licensees have not diverted water for five years:

1. Peggy Wellock advised Division staff in 2005 that water had not been used for five years and requested revocation of License 9462. Peggy Wellock confirmed there have been no diversions from Grass Valley Creek for at least six to seven years (Division contact report dated January 21, 2007).
2. James Dippery informed Division staff on February 7, 2006 that water has not been diverted for approximately ten years due to lack of maintenance of the ditch and disrepair of the diversion facility.

C. Based on the above facts, the Division concludes that:

1. Licensees have not, or have ceased to, put the water granted under License 9462 to a useful or beneficial purpose.
2. Licensees have not applied the water to beneficial use for at least five consecutive years. Licensee's water right should, therefore, be revoked pursuant to Water Code 1675. The pursuant to Water Code section 1675.
3. On February 29, 2008, Licenses were provided notice by certified mail of the proposed revocation. The notice provided the Licensee the opportunity to object to the proposed revocation and request a hearing.
4. The Licensees did not submit a request for a hearing to the Division.
5. The State Water Board has found that Licensees failed to apply the water to beneficial use under the terms and conditions of this license.

Therefore, it is ordered that License 9462 is hereby revoked by the State Water Board pursuant to Water Code section 1675, and the water is declared to be subject to appropriation. This revocation may not result in additional water being available for new appropriations if there are applicable restrictions due to past State Water Board decisions regarding water availability.

STATE WATER RESOURCES CONTROL BOARD



*Victoria A. Whitney, Chief
Division of Water Rights*

JUN 13 2008
Dated:



STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

(OVER)

9462

APPLICATION 22401

PERMIT 15240

LICENSE 9462

THIS IS TO CERTIFY, That

BENJAMIN R. WELLOCK AND META A. WELLOCK
P. O. BOX 126, LEWISTON, CALIFORNIA 96052

HAVE made proof as of JULY 28, 1970 (the date of inspection)
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of
GRASS VALLEY CREEK IN TRINITY COUNTY

tributary to TRINITY RIVER

for the purpose of IRRIGATION AND RECREATIONAL USES
under Permit 15240 of the Board and that the right to the use of this water has been perfected
in accordance with the laws of California, the Regulations of the Board and the permit terms; that the
priority of this right dates from FEBRUARY 23, 1966 and that the amount of water to which
this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated
purposes and shall not exceed ONE (1) CUBIC FOOT PER SECOND, TO BE DIVERTED FROM ABOUT
APRIL 1 TO ABOUT NOVEMBER 1 OF EACH YEAR. THE MAXIMUM AMOUNT DIVERTED UNDER THIS
LICENSE SHALL NOT EXCEED 428 ACRE-Feet PER YEAR.

THE POINT OF DIVERSION OF SUCH WATER IS LOCATED:

DUE EAST 1,320 FEET FROM W1/4 CORNER OF SECTION 26, T33N, R9W, MDB&M, BEING
WITHIN SW1/4 OF NW1/4 OF SAID SECTION 26.

A DESCRIPTION OF LANDS OR THE PLACE WHERE
SUCH WATER IS PUT TO BENEFICIAL USE IS AS FOLLOWS:

10 ACRES WITHIN NW1/4 OF NW1/4 OF SECTION 26, T33N, R9W, MDB&M.

UPON A JUDICIAL DETERMINATION THAT THE PLACE OF USE UNDER THIS LICENSE OR A
PORTION THEREOF IS ENTITLED TO THE USE OF WATER BY RIPARIAN RIGHT, THE RIGHT SO
DETERMINED AND THE RIGHT ACQUIRED UNDER THIS LICENSE SHALL NOT RESULT IN A
COMBINED RIGHT TO THE USE OF WATER IN EXCESS OF THAT WHICH COULD BE CLAIMED UNDER
THE LARGER OF THE TWO.

THE ISSUANCE OF THIS LICENSE SHALL NOT BE CONSTRUED AS CONFERRING UPON THE
LICENSEE RIGHT OF ACCESS TO THE POINT OF DIVERSION.

5/4/98 Agd. to David R. Wellock & Peggy R. Wellock
6/9/98 Agd. to David R. Wellock, Peggy R. Wellock & Dolbert Wellock;

Licensee shall allow representatives of the Board and other parties, as may be authorized from time to time by the Board, reasonable access to project works to determine compliance with the terms of this license.

All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property cannot agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Dated: SEP 29 1970

STATE WATER RESOURCES CONTROL BOARD

K.L. Woodward
Chief, Division of Water Rights